

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY DANIEL MCGUIRE And JAMES
LEE JOSEPH RYAN,

Plaintiffs,

vs.

Case No. 05-40185

HONORABLE PAUL V. GADOLA

HONORABLE STEVEN D. PEPE

DOUGLAS WARNER, ET AL.,
Defendants.

_____ /

ORDER FOLLOWING STATUS CONFERENCE

On January 24, 2006, Plaintiff's Motion to Compel Discovery of Documents from Non-Party Oakland County Prosecutor's Office (Dkt. #17) was referred to the undersigned for hearing and determination pursuant to 28 U.S.C. 636 (b)(1)(A). All matters on this motion were resolved except the documents from the Oakland County Prosecutor.

Following a telephonic hearing on the record on March 03, 2006, and a follow-up status conference held March 13, 2006, it was determined that the Oakland County Prosecutor will provide to Plaintiffs' counsel the witness statements and polygraph results of Plaintiffs in this case that apparently lead to the dismissal of the criminal matter. Plaintiffs' counsel has or will receive the preliminary complaint reports and other items available to the Prosecutor with the exception of any document in which the prosecution team discussed and determined not to proceed with the prosecution of the criminal case against Plaintiffs. After assurances by the attorney for the Oakland County Prosecutor that these internal documents did not include any

input from either Defendant in this case, and the decision not to prosecute was based solely on the factual materials are and will be available to Plaintiffs' counsel, it is determined that such prosecutorial analysis of the case (which is inadmissible opinion and based on no facts not available to Plaintiffs' counsel) is not subject to discovery because it is not reasonably calculated to lead to the discovery of admissible evidence under Fed. R. Civ. P. 26(b)(1).

An *in camera* inspection also is not appropriate because upon the representations of the Oakland County Prosecutor there is no reasonable probability that this would lead to the discovery of admissible evidence.

The Oakland County Prosecutor documents discussed at the status conference will be mailed to Plaintiffs' counsel forthwith.

SO ORDERED.

Dated: March 14, 2006
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

Certificate of Service

I hereby certify that a copy of this Order was served upon the attorneys of record by electronic means or U. S. Mail on March 14, 2006.

s/William J. Barkholz
Courtroom Deputy Clerk